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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 ARTURO G. GUANTES,

12 Plaintiff,

13 v.

14 CAROLYN W. COLVIN, ACTING
15 COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION,^{1/}

16 Defendant.
17

Case No. CV 12-1536 JCG

**MEMORANDUM OPINION AND
ORDER**

18
19 Arturo G. Guantes (“Plaintiff”) challenges the Social Security
20 Commissioner’s decision denying his application for disability benefits.
21 Specifically, Plaintiff contends that the Administrative Law Judge (“ALJ”) failed to
22 properly consider evidence of Plaintiff’s headaches, which the ALJ deemed a severe
23 impairment. (Joint Stip. at 19-21; Administrative Record (“AR”) at 19.) The Court
24 agrees with Plaintiff for the reasons stated below.

25 A. The ALJ Failed to Properly Consider Evidence of Plaintiff’s Headaches

26 “If an ALJ finds a severe impairment at step two, that impairment must be
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28 ^{1/} Carolyn W. Colvin is substituted as the proper defendant herein. *See* Fed. R. Civ. P. 25(d).

1 considered in the remaining steps of the sequential analysis.” *Bray v. Comm’r Soc.*
2 *Sec. Admin.*, 554 F.3d 1219, 1228 (9th Cir. 2009); *see* 20 C.F.R. §§ 404.1523,
3 416.923. Specifically, when the ALJ determines a claimant’s residual functional
4 capacity (“RFC”) between steps three and four, the ALJ shall consider the combined
5 impact of a claimant’s medically cognizable impairments on the claimant’s ability to
6 work. *See* 20 C.F.R. § 416.923; *see also Macri v. Chater*, 93 F.3d 540, 545 (9th
7 Cir. 1996). “[A]n RFC that fails to take into account a claimant’s limitations is
8 defective.” *Valentine v. Comm’r Soc. Sec. Admin.*, 574 F.3d 685, 690 (9th Cir.
9 2009).

10 Likewise, when an ALJ poses hypothetical questions to a vocational expert
11 (“VE”) in order to reach a step five determination, they must “set out all the
12 limitations and restrictions of the particular claimant.” *Russell v. Sullivan*, 930 F.2d
13 1443, 1445 (9th Cir. 1991), *abrogated on other grounds by Sorenson v. Mink*, 239
14 F.3d 1140, 1149 (9th Cir. 2001). If an ALJ’s hypothetical does not address all of
15 the claimant’s impairments, “the expert’s testimony has no evidentiary value to
16 support a finding that the claimant can perform jobs in the national economy.”
17 *DeLorme v. Sullivan*, 924 F.2d 841, 850 (9th Cir. 1991); *see also Bray*, 554 F.3d at
18 1228.

19 Here, the ALJ explicitly determined that Plaintiff’s headaches constituted a
20 severe impairment at step two. (AR at 19.) Nevertheless, the ALJ failed to account
21 for their manifestations in the remaining steps of his sequential analysis. (*Id.* at 19-
22 24.) First, the ALJ omitted Plaintiff’s headache symptoms from his RFC
23 determination without explanation or explicit rejection. (*Id.* at 19-22.) Next, the
24 ALJ excluded the impairment from his hypothetical to the VE at Plaintiff’s hearing,
25 and consequently, in his step five conclusion. (*Id.* at 22-24.) The ALJ’s failure to
26 address Plaintiff’s headaches in his RFC and step five determinations amounts to
27 reversible error.
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1 B. Remand is Warranted

2 With error established, this Court has discretion to remand or reverse and
3 award benefits. *McAllister v. Sullivan*, 888 F.2d 599, 603-04 (9th Cir. 1989).
4 Where no useful purpose would be served by further proceedings, or where the
5 record has been fully developed, it is appropriate to exercise this discretion to direct
6 an immediate award of benefits. *See Benecke v. Barnhart*, 379 F.3d 587, 593, 595-
7 96 (9th Cir. 2004). But where there are outstanding issues that must be resolved
8 before a determination can be made, or it is not clear from the record that the ALJ
9 would be required to find Plaintiff disabled if all the evidence were properly
10 evaluated, remand is appropriate. *See id.* at 593-94.

11 Here, there are outstanding issues which must be resolved before a final
12 determination can be made. On remand, the ALJ shall consider the evidence of
13 Plaintiff's headaches and shall explicitly explain why the evidence related to this
14 severe impairment is to be credited or rejected.

15 Based on the foregoing, IT IS ORDERED THAT judgment shall be entered
16 **REVERSING** the decision of the Commissioner denying benefits and
17 **REMANDING** the matter for further administrative action consistent with this
18 decision.^{2/}

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20 Dated: October 1, 2013

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22 
23 Hon. Jay C. Gandhi
24 United States Magistrate Judge
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28 ^{2/} In light of the Court's remand instructions, it is unnecessary to address
Plaintiff's remaining contentions. (*See Joint Stip.* at 3-6, 9-12, 15-18, 22-23.)